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10/788,467	03/01/2004	Kazuko Shibata	8031-1032	9232

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EXAMINER

TORRES, MARCOS L

ART UNIT	PAPER NUMBER
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2617

MAIL DATE	DELIVERY MODE
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07/06/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/788,467

Applicant(s)

SHIBATA ET AL.

Examiner

Marcos L. Torres

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 April 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 4-3-07 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-19 have been considered but are moot in view of the new ground(s) of rejection.
2. The 101 rejection is maintained because the claim is directed to an abstract computer program without any meaningful output. Thereby is a non-statutory subject matter.

Drawings

3. The drawings were received on 4-3-07. These drawings are accepted.

Claim Rejections - 35 USC § 101

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claim 19 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The above-mentioned claim is directed to an abstract computer program without any meaningful output, or physical transformation. And does not produce any tangible and useful result. Thereby, the claim is directed to a non-statutory subject matter.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

9. Claims 1, 4, 7, 10, 13, 16 and 19-21 are rejected under 35 U.S.C. 102(e) as being unpatentable by Kekki US 20030099255A1 in view of Mitts US005940371A.

As to claim 1, Kekki discloses a mobile communication system including a radio network controller controlling a base station (see par. 0002,0003), wherein the radio network controller comprises means for transferring packet data from a handover source base station to a handover destination base station when handover between base stations occurs due to a move of a mobile station in the course of high-speed

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packet communication by an HSDPA (High Speed Downlink Packet Access) system between the base station and the mobile station (see par. 0004,0017, fig. 2b). Kekki does not specifically disclose lossless transferring last received packet. In an analogous art, Mitts discloses lossless transferring last received packet from a handover source base station to a handover destination base station (see fig. 5; col. 7, line 25 – col. 9, line 13). Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to combine these teachings for increase reliability by diminish packet loss and packets out of order (see col. 4, lines 27-35).

As to claim 4, Kekki discloses a mobile communication system wherein the means for transferring packet data establishes an AAL2 [ATM (Asynchronous Transfer Mode) Adaptation Layer type 2] connection between the handover source base station and the handover destination base station thereby to transfer data from the handover source base station to the handover destination base station (see par. 0008). .Mitts discloses lossless transferring last received packet from a handover source base station to a handover destination base station (see fig. 5; col. 7, line 25 – col. 9, line 13).

Regarding claims 7 and 10, they are the corresponding apparatus claims of system claims 1 and 4. Therefore, claims 7 and 10 are rejected for the same reasons shown above.

Regarding claims 13 and 16, they are the corresponding method claims of system claims 1 and 4. Therefore, claims 13 and 16 are rejected for the same reasons shown above.

As to claim 20, Mitts discloses that is known in the art to convert an address (header) contained in the packet data last received at the handover source base station from an address of the handover source base station to a destination, and since it is in a handover, an address of the handover destination base station (see col. 3, lines 42-48).

As to claim 21, Mitts the method further comprising the steps of storing the last received packet data in a queue in the handover source base station and wherein the step of transferring the packet data includes transferring the data in the queue to the handover destination base station (see col. 8, lines 25-52).

As to claim 19 is also rejected for the same reason of claim 1 shown above.

10. Claims 2-3, 8-9, and 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kekki in view of Mitts, as applied to claim 1 above and further in view of Milton US006721333B1.

As to claim 2, Kekki discloses everything as explained above (see claim 1) except the mobile communication system according, wherein the means for transferring packet data transfers data from the handover source base station to the handover destination base station by routing using an IP (Internet Protocol) address. Mitts disclose lossless transferring last received packet from a handover source base station to a handover destination base station (see fig. 5; col. 7, line 25 – col. 9, line 13). In an analogous art, Milton discloses the mobile communication system according, wherein the means for transferring packet data transfers data from the handover source base station to the handover destination base station by routing using an IP (Internet Protocol) address (see col. 7 lines 1-3). Therefore, it would have been obvious to one of

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the ordinary skill in the art at the time of the invention to use standard IP address and UDP ports to facilitate inter-manufacturer handoff.

As to claim 3, Kekki discloses everything as explained above (see claim 2) except the mobile communication system wherein the means for transferring packet data informs the handover source base station of an IP address and UDP (User Datagram Protocol) port number of the handover destination base station. In an analogous art, Milton discloses the mobile communication system wherein the means for transferring packet data informs the handover source base station of an IP address and UDP (User Datagram Protocol) port number of the handover destination base station (see col. 6, line 63 – col. 7, line 3).

Regarding claims 8 and 9, they are the corresponding apparatus claims of system claims 2 and 3. Therefore, claims 8 and 9 are rejected for the same reasons shown above.

Regarding claims 14 and 15, are the corresponding method claims of system claims 2 and 3. Therefore, claim 14 and 15 are rejected for the same reasons shown above.

11. Claims 3, 9 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kekki in view of Yi US 20030128705A1.

As to claim 6, Kekki discloses everything as explained above (see claim 1) except the mobile communication system wherein a sequence number is added to an HS-DSCH (High Speed-Downlink Shared Channel) Frame Protocol so that the handover destination base station controls an order of transferring downlink high-speed

packet data when the handover between base stations occurs. In an analogous art, Yi discloses the mobile communication system wherein a sequence number is added to an HS-DSCH (High Speed-Downlink Shared Channel) Frame Protocol so that the handover destination base station controls an order of transferring downlink high-speed packet data when the handover between base stations occurs (see par. 0110).

Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to add the TSN for a seamless handover.

Regarding claim 12 is the corresponding apparatus claim of system claim 6.
Therefore, claim 12 is rejected for the same reasons shown above.

Regarding claim 18 is the corresponding method claim of system claim 6.
Therefore, claim 18 is rejected for the same reasons shown above.

12. Claims 5, 11 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kekky in view of Pudas US 20020131416A1.

As to claim 5, Kekky discloses everything as explained above (see claim 4) except the mobile communication system wherein the means for transferring packet data informs the handover source base station of an AAL2 endpoint address of the handover destination base station. In an analogous art, Pudas discloses the mobile communication system wherein the means for transferring packet data informs the handover source base station of an AAL2 endpoint address of the handover destination base station (see par. 0025). Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to add this teaching to use the AAL2 protocol.

Regarding claim 11 is the corresponding apparatus claim of system claim 5.

Therefore, claim 11 is rejected for the same reasons shown above.

Regarding claim 17 is the corresponding method claim of system claim 5.

Therefore, claim 17 is rejected for the same reasons shown above.

Conclusion

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any response to this Office Action should be mailed to:

U.S. Patent and Trademark Office
Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Or faxed to:

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571-273-8300

for formal communication intended for entry, informal communication or draft communication; in the case of informal or draft communication, please label "PROPOSED" or "DRAFT"

Hand delivered responses should be brought to:

Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marcos L. Torres whose telephone number is 571-272-7926. The examiner can normally be reached on 8:00am-6:00 PM alt. Wednesday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, George Eng can be reached on 571-252-7495. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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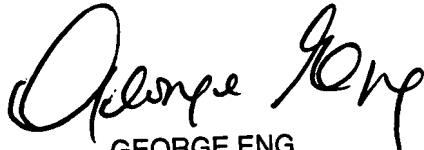
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Marcos L Torres

Examiner

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mlt


GEORGE ENG
SUPERVISORY PATENT EXAMINER